IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 18398 of 2006(M)

PETITIONER:

CHANDU,
LATHA BHAVAN,OORUPOLKA,
EDAKODE VILLAGE, CHIRAYINKIL TALUK.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

RESPONDENT:

THE ASSISTANT EXCISE COMMISSIONER,
EXCISE DIVISION OFFICE,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. V.T.K. MOHANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.18398 OF 2006

DATED THIS THE 18th DAY OF DECEMBER, 2006

JUDGMENT

Petitioner is the licencee of toddy shop No.1/04-05 of Chirayinkeezhu Range. Under Ext.P4, the toddy shop was permitted to be shifted to building in Sy.No.360 of Edakkode Village of Chirayinkeezhu Taluk. The said shed was demolished by panchayat authorities holding that it is situated in puramboke land. Thereafter Ext.P10 notice was issued to petitioner to start the shop. This petition is filed under Article 227 of Constitution of India for a writ of certiorari to quash Ext.P10 notice.

2. Learned Counsel appearing for petitioner submitted that petitioner has submitted Ext.P11 representation before Assistant Excise Commissioner, Thiruvananthapuram to run the toddy shop in a new site and a direction may be issued to consider the same and pass appropriate orders.

3. Learned Government Pleader submitted that under Rule 7 (15) of Abkari Act, after receipt of Ext.P10 notice, a toddy shop has to be started within thirty days and if not started the Excise Authorities have got a right to terminate the licence and therefore Ext.P11

application cannot be allowed. Learned Counsel appearing for petitioner submitted that licence has not so far been terminated and therefore that objection does not arise.

It is for the Asst.Excise Commissioner to decide whether Ext.P11 application is to be allowed or not. This writ petition is disposed directing Asst. Excise Commissioner, Thiruvananthapuram to consider Ext.P11 and pass appropriate order in accordance with rules, within one month from the date of receipt of copy of this judgment.

M.SASIDHARAN NAMBIAR,JUDGE

Acd